

3IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF MAURICE COOPER § No. 482, 2010
FOR A WRIT OF PROHIBITION/ §
MANDAMUS. § Cr. ID No. 9607013229

Submitted: August 18, 2010
Decided: October 13, 2010

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 13th day of October 2010, upon consideration of the petition for a writ of prohibition/mandamus filed by Maurice Cooper and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) In 1997, Cooper pled guilty to criminal charges and was sentenced, in 1998, to twenty-five years at Level V suspended after fifteen years for decreasing levels of probation.¹ On February 26, 2010, while on conditional release from that sentence, Cooper was arrested on drug charges.² As a result of his arrest, Cooper was charged, on March 3, 2010, with having violated his conditional release and, on July 28, 2010, with having violated probation (VOP).³

(2) In his prohibition/mandamus petition, Cooper seeks to prevent the Superior Court from holding a VOP hearing. According to Cooper, the Superior Court is without jurisdiction to proceed on the VOP because, at the

¹ See docket at 48, *State v. Cooper*, Del. Super., Cr. ID No. 9607013229 (April 21, 1998) (sentencing).

² *State v. Cooper*, Del. Super., Cr. ID No. 1002013686.

³ The Superior Court docket reflects that the Board of Parole has since discharged Cooper's conditional release and dismissed the parole violation. See docket at 81, *State v. Cooper*, Del. Super., Cr. ID No. 9607013229 (Aug. 18, 2010).

time of his arrest, he was on conditional release and had not yet begun serving the probationary part of the sentence.

(3) A writ of prohibition is the legal equivalent of the equitable remedy of injunction and may be issued to prevent a trial court from exceeding the limits of its jurisdiction.⁴ A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.⁵

(4) Cooper's petition offers no legitimate basis to question the Superior Court's jurisdiction or to suggest that the Superior Court has failed or refused to perform a duty owed to him. It is well-established that the Superior Court may terminate probation at any time.⁶ Cooper's status at the time of the alleged violation does not divest the Superior Court of jurisdiction from proceeding on the VOP.⁷

NOW, THEREFORE, IT IS ORDERED that Cooper's petition for a writ of prohibition/mandamus is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁴ *In re Hovey*, 545 A.2d 626, 628 (Del. 1988).

⁵ *In re Bordley*, 545 A.2d 619 (Del. 1988).

⁶ See Del. Code Ann., tit. 11, § 4333(a) (2007) (providing that a period of probation may be terminated by the court at any time).

⁷ *McClements v. State*, 2008 WL 962629 (Del. Supr.) (citing *Williams v. State*, 560 A.2d 1012, 1015 (Del. 1989)); *Winn v. State*, 1998 WL 515166 (Del. Supr.); *Rogers v. State*, 1997 WL 683296 (Del. Supr.); *Gabbert v. State*, 1995 WL 420798 (Del. Supr.). See also *In re Gunther*, 1999 WL 1090591 (Del. Supr.) (dismissing mandamus/prohibition petition on basis that right of appeal was complete and adequate remedy to review double jeopardy claim and any other alleged errors arising from VOP prosecution).